

APPEAL NO. 032968
FILED JANUARY 6, 2004

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). A contested case hearing was held on October 21, 2003. The hearing officer determined that the Independent Review Organization's (IRO) decision in favor of the appellant's (claimant) recommended spinal surgery is not supported by a preponderance of the evidence. The claimant appeals this determination. The respondent (carrier) urges affirmance of the hearing officer's decision and order.

DECISION

Affirmed.

Whether the IRO's decision was supported by a preponderance of the evidence was a factual question for the hearing officer to resolve. The hearing officer is the sole judge of the weight and credibility of the evidence (Section 410.165(a)) and, as the trier of fact, resolves the conflicts and inconsistencies in the evidence including the medical evidence (Texas Employers Insurance Association v. Campos, 666 S.W.2d 286 (Tex. App.-Houston [14th Dist.] 1984, no writ)). The hearing officer pointed out that there were medical opinions in evidence that contradicted the decision of the IRO and concluded that the IRO decision was not supported by a preponderance of the evidence. Nothing in our review of the record indicates that the hearing officer's decision is so against the great weight and preponderance of the evidence as to be clearly wrong or manifestly unjust. Cain v. Bain, 709 S.W.2d 175, 176 (Tex. 1986).

The hearing officer's decision and order are affirmed.

The true corporate name of the insurance carrier is **MID-CENTURY INSURANCE EXCHANGE** and the name and address of its registered agent for service of process is

**FRED B. WERKENTHIN
FARMER'S INSURANCE GROUP
100 CONGRESS AVENUE
AUSTIN, TEXAS 78701.**

Chris Cowan
Appeals Judge

CONCUR:

Gary L. Kilgore
Appeals Judge

Robert W. Potts
Appeals Judge